IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

WP(C).No. 33742 of 2007(P)

PETITIONER:

SRI.VENKATESHWARA GLASS & GLAZING,
34/1833, HIGH SCHOOL JUNCTION, EDAPPALLY P.O.
COCHIN - 682 024 REPRESENTED BY ITS AUTHORISED
SIGNATORY & ACCOUNTANT SMT.PRAMEELA DEVI,
AGED 39 YEARS, WIFE OF LATE SRI.VENUGOPAL.

BY ADV. SRI.ANIL S.RAJ
SMT.MANJUSHA MOHANDAS
SMT.ANILA PETER

RESPONDENTS:

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1. INSPECTING ASSISTANT COMMISSIONER (INT)
DEPARTMENT OF COMMERCIAL TAXES,
SQUAD NO.III, MATTANCHERRY, ERNAKULAM DISTRICT.

2. COMMERCIAL TAX OFFICER, OFFICE OF THE
COMMERCIAL TAX OFFICER, KVAT CIRCLE I,
KALAMASSERY.

BY GOVT. PLEADER MR. GOVINDAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 33742 OF 2007 P
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Dated this the 15th November, 2007

J U D G M E N T

Goods transported by the petitioner are under detention by Ext. P2. The irregularity noticed is that though the consignee's address is at Edappally and the delivery address is also the same, the vehicle with the goods was intercepted while it was plying towards Aluva side. Counsel for the writ petitioner makes reference to Ext. P1 certificate of registration under the KVAT Act, 2003 and points out that they do have a godown at NAD at Aluva side. It is also submitted that advance tax has already been paid and that therefore there is no justification to presume any evasion of tax.

2. The merits of the dispute is a matter for enquiry and adjudication that is yet to be held. Presently, it is seen that the petitioner has a godown and that fact is also mentioned in Ext. P1 certificate of registration. At this stage, I am also not

pronouncing on the correctness of this claim made by the petitioner. In my view there is no need for the continued detention of the goods and therefore the goods can be released. Taking into account the fact that the petitioner is a registered dealer and that the advance tax has already been paid, I direct that the goods will be released to the petitioner on executing a bond without sureties.

The writ petition is disposed of as above.

ANTONY DOMINIC
JUDGE

jan/-